

REMARKS

Claims 1-15 and 19-21 are rejected under 35 USC 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. As such, applicant has amended Claim 1, 2, 3, 4, 7, 8, 10, 14, 15, 19 and 20 per the recommendations in the Office Action so that the claims comply with 35 USC 112, second paragraph. As such claims have been amended, applicant respectfully requests that the rejection put forth for these claims be removed.

Claims Rejections 35 USC 103

Claims 19-20 are rejected in the office action as being unpatentable over Yasui et al., in view of Imamura et al. Prior to discussion of how Yasui teaches away from the invention of the above-captioned application it would be helpful to review what is actually taught within the Office Action's primary reference Yasui. Generally, Yasui attempts to preclude the elastic deformation of switches as seen in Fig. 10 and Fig. 11 of the prior art, when different forces are applied to the switch. More specifically, in Fig. 11 Yasui illustrates prior art where a portion of the elastic member comes free and thus results in non-alignment of the member. In doing so, Yasui provides a base formed of resin with curled up portions of the base and specifically an annular rib formed into the base area. This works to maintain flange 7B within the base through

CERTIFICATE OF ELECTRONIC TRANSMISSION

I certify that this paper and/or fee was transmitted to the United States Patent and Trademark Office using the EFS-Web filing system on January 29, 2009 by 11:59 CST (Local Time).

Ryan D. Levy, 58,618/
Ryan D. Levy, 58,618

contact with the curved portion of 11B of the base and the upper end of the annular rib 12 in forming a tight engagement.

The invention of the above-captioned application does not include any such annular rib for making a tight engagement of the dome member as the invention of the above-captioned application cannot function in such a manner. Specifically, the dome member of the present invention functions and defines the annular rib completely different as the annular rib is a portion of the elastic dome member and not a ridge on the rigid housing. Furthermore, there is no way the invention of the above-captioned application could function with the annular rib 12 as defined in Yasui as the dome member is inserted within housing 10 of the above captioned application with tabs 12 folding there over. A annular rib as defined in Yasui would preclude this. As such, Yasui teaches away from the invention of the above-captioned application as the annular rib as defined in Yasui is completely incompatible with the present invention that utilizes tabs to maintain the dome within the housing in securing a fit for the invention.

Imamura additionally teaches away from the invention of the above-captioned application as the base portion connects apparently to multiple dome type members linking them together which again teaches away from the invention of the above-captioned application as each dome of the invention of the above-captioned application

CERTIFICATE OF ELECTRONIC TRANSMISSION

I certify that this paper and/or fee was transmitted to the United States Patent and Trademark Office using the EFS-Web filing system on January 29, 2009 by 11:59 CST (Local Time).

Ryan D. Levy, 58,618/
Ryan D. Levy, 58,618

is inserted into a housing with a plurality of tabs thus folding over. This Imamura model is clearly illustrated in Fig. 1. This will not work with the dome member of the above-captioned application in creating a waterproof fit. As such the invention cannot function with dome members linked together as there would be no way for the tabs to form the tight seal between the housing and the dome members.

Accordingly, applicant believes that Claims 19-20 are patentable over both Yasui and Imamura. Applicant respectfully requests that the rejection within the Office Action be withdrawn with respect to claims 19-20.

Allowable Subject Matter

The Office Action states that Claims 1, 3, 14 and 15 would be allowable if rewritten or amended to overcome the rejections under 35 USC 112, second paragraph. Applicant has amended Claims 1, 3, 14, and 15 to overcome the rejections under 112, second paragraph and thus respectfully requests that these claims be allowed. Additionally, as applicant has complied with all the rejections under 35 USC 112, second paragraph, applicant additionally believes Claims 2, 4-13 and 19-20 should also be allowed for the above-captioned application.

Applicant has commented on some of the distinctions between the cited referenced and the claims to facilitate a better understanding of the present invention. This discussion is not exhaustive of the facets of the invention, and applicant hereby

CERTIFICATE OF ELECTRONIC TRANSMISSION

I certify that this paper and/or fee was transmitted to the United States Patent and Trademark Office using the EFS-Web filing system on January 29, 2009 by 11:59 CST (Local Time).

Ryan D. Levy, 58,618/
Ryan D. Levy, 58,618

reserves the right to present additional distinctions as appropriate. Furthermore, while these remarks may employ shortened, more specific, or variant descriptions of some of the claim language, applicant respectfully notes that these remarks are not to be used to create implied limitations in the claims and only the actual wording of the claims should be considered against these references.

The Commissioner is authorized to charge any deficiency or credit any over payment associated with the filing of this response to Deposit Account No. 23-0035.

Respectfully submitted,

Ryan D. Levy, 58,618/

Ryan D. Levy - Reg. No. 58,618
Waddey & Patterson, P.C.
Customer No. 23456
1600 Division Street, Suite 500
Roundabout Plaza
Nashville, TN 37203
(615) 242-2400

CERTIFICATE OF ELECTRONIC TRANSMISSION

I certify that this paper and/or fee was transmitted to the United States Patent and Trademark Office using the EFS-Web filing system on January 29, 2009 by 11:59 CST (Local Time).

Ryan D. Levy, 58,618/
Ryan D. Levy, 58,618